

FIRST REGULAR SESSION

HOUSE BILL NO. 356

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JONES (50).

0664H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 217.670 and 217.690, RSMo, and to enact in lieu thereof two new sections relating to decisions of the board of probation and parole.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 217.670 and 217.690, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 217.670 and 217.690, to read as follows:

217.670. 1. The board shall adopt an official seal of which the courts shall take official notice.

2. Decisions of the board regarding granting of paroles, extensions of a conditional release date or revocations of a parole or conditional release shall be by a majority vote of the hearing panel members **and shall occur within two weeks of the time of the hearing required under section 217.690**. The hearing panel shall consist of one member of the board and two hearing officers appointed by the board. A member of the board may remove the case from the jurisdiction of the hearing panel and refer it to the full board for a decision. Within thirty days of entry of the decision of the hearing panel to deny parole or to revoke a parole or conditional release, the offender may appeal the decision of the hearing panel to the board. The board shall consider the appeal within thirty days of receipt of the appeal. The decision of the board shall be by majority vote of the board members and shall be final.

3. The orders of the board shall not be reviewable except as to compliance with the terms of sections 217.650 to 217.810 or any rules promulgated pursuant to such section.

4. The board shall keep a record of its acts and shall notify each correctional center of its decisions relating to persons who are or have been confined in such correctional center.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 5. Notwithstanding any other provision of law, any meeting, record, or vote, of
18 proceedings involving probation, parole, or pardon, may be a closed meeting, closed record, or
19 closed vote.

20 6. Notwithstanding any other provision of law, when the appearance or presence of an
21 offender before the board or a hearing panel is required for the purpose of deciding whether to
22 grant conditional release or parole, extend the date of conditional release, revoke parole or
23 conditional release, or for any other purpose, such appearance or presence may occur by means
24 of a videoconference at the discretion of the board. Victims having a right to attend parole
25 hearings may testify either at the site where the board is conducting the videoconference or at the
26 institution where the offender is located. The use of videoconferencing in this section shall be
27 at the discretion of the board, and shall not be utilized if either the offender, the victim or the
28 victim's family objects to it.

217.690. 1. When in its opinion there is reasonable probability that an offender of a
2 correctional center can be released without detriment to the community or to himself, the board
3 may in its discretion release or parole such person except as otherwise prohibited by law. All
4 paroles shall issue upon order of the board, duly adopted.

5 2. Before ordering the parole of any offender, the board shall have the offender appear
6 before a hearing panel and shall conduct a personal interview with him, unless waived by the
7 offender. A parole shall be ordered only for the best interest of society, not as an award of
8 clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be
9 placed on parole only when the board believes that he is able and willing to fulfill the obligations
10 of a law-abiding citizen. Every offender while on parole shall remain in the legal custody of the
11 department but shall be subject to the orders of the board.

12 3. **The hearing panel shall make a decision within two weeks of the personal**
13 **interview described in subsection 2 of this section. Any victim of the crime for which the**
14 **offender is incarcerated shall be notified of the panel's decision.**

15 4. The board has discretionary authority to require the payment of a fee, not to exceed
16 sixty dollars per month, from every offender placed under board supervision on probation,
17 parole, or conditional release, to waive all or part of any fee, to sanction offenders for willful
18 nonpayment of fees, and to contract with a private entity for fee collections services. All fees
19 collected shall be deposited in the inmate fund established in section 217.430. Fees collected
20 may be used to pay the costs of contracted collections services. The fees collected may otherwise
21 be used to provide community corrections and intervention services for offenders. Such services
22 include substance abuse assessment and treatment, mental health assessment and treatment,
23 electronic monitoring services, residential facilities services, employment placement services,

24 and other offender community corrections or intervention services designated by the board to
25 assist offenders to successfully complete probation, parole, or conditional release.

26 The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with
27 respect to sanctioning offenders and with respect to establishing, waiving, collecting, and using
28 fees.

29 [4.] 5. The board shall adopt rules not inconsistent with law, in accordance with section
30 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or
31 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall
32 recite the conditions of such parole.

33 [5.] 6. When considering parole for an offender with consecutive sentences, the
34 minimum term for eligibility for parole shall be calculated by adding the minimum terms for
35 parole eligibility for each of the consecutive sentences, except the minimum term for parole
36 eligibility shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

37 [6.] 7. Any offender under a sentence for first degree murder who has been denied
38 release on parole after a parole hearing shall not be eligible for another parole hearing until at
39 least three years from the month of the parole denial; however, this subsection shall not prevent
40 a release pursuant to subsection 4 of section 558.011.

41 [7.] 8. Parole hearings shall, at a minimum, contain the following procedures:

42 (1) The victim or person representing the victim who attends a hearing may be
43 accompanied by one other person;

44 (2) The victim or person representing the victim who attends a hearing shall have the
45 option of giving testimony in the presence of the inmate or to the hearing panel without the
46 inmate being present;

47 (3) The victim or person representing the victim may call or write the parole board rather
48 than attend the hearing;

49 (4) The victim or person representing the victim may have a personal meeting with a
50 board member at the board's central office;

51 (5) The judge, prosecuting attorney or circuit attorney and a representative of the local
52 law enforcement agency investigating the crime shall be allowed to attend the hearing or provide
53 information to the hearing panel in regard to the parole consideration; and

54 (6) The board shall evaluate information listed in the juvenile sex offender registry
55 pursuant to section 211.425, provided the offender is between the ages of seventeen and
56 twenty-one, as it impacts the safety of the community.

57 [8.] 9. The board shall notify any person of the results of a parole eligibility hearing if
58 the person indicates to the board a desire to be notified.

59 [9.] **10.** The board may, at its discretion, require any offender seeking parole to meet
60 certain conditions during the term of that parole so long as said conditions are not illegal or
61 impossible for the offender to perform. These conditions may include an amount of restitution
62 to the state for the cost of that offender's incarceration.

63 [10.] **11.** Nothing contained in this section shall be construed to require the release of an
64 offender on parole nor to reduce the sentence of an offender heretofore committed.

65 [11.] **12.** Beginning January 1, 2001, the board shall not order a parole unless the
66 offender has obtained a high school diploma or its equivalent, or unless the board is satisfied that
67 the offender, while committed to the custody of the department, has made an honest good-faith
68 effort to obtain a high school diploma or its equivalent; provided that the director may waive this
69 requirement by certifying in writing to the board that the offender has actively participated in
70 mandatory education programs or is academically unable to obtain a high school diploma or its
71 equivalent.

72 [12.] **13.** Any rule or portion of a rule, as that term is defined in section 536.010, that is
73 created under the authority delegated in this section shall become effective only if it complies
74 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
75 This section and chapter 536 are nonseverable and if any of the powers vested with the general
76 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
77 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
78 any rule proposed or adopted after August 28, 2005, shall be invalid and void.

✓